640

SUPREME COURT OF THE UNITED STATES.

No. 140.

EDMUND B. CALDWELL, PLAINTIFF IN ERROR,

vs.

THE UNITED STATES.

IN ERROR TO THE CIRCUIT COURT U. S. FOR THE EASTERN DISTRICT OF PENN.

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J. & G. S. Gideon, printers.

THE UNITED STATES, *sct.*,
Eastern district of Pennsylvania:

The President of the United States to the judges of the circuit court of the United States, in and for the eastern district of Pennsyl-
[L. S.] vania, in the third circuit, greeting:

Because that, in the record and process, and also in the rendering of judgment in a suit before you, between Edmund B. Caldwell, who survived James Lynd, jr., late trading as James Lynd, jr., & Co., plaintiffs in error, and the United States of America, defendants in error, in a plea by way of information, a manifest error has intervened to the great damage of the said Edmund B. Caldwell, who survived James Lynd, jr., late trading as aforesaid, as in his complaint has been stated; and as it is just and proper that the error, if any there be, should be corrected in due manner, and that full and speedy justice should be done to the parties aforesaid in this behalf, you are hereby commanded, that if judgment thereof be given, then under your seal, you do distinctly and openly send the record and process in the suit aforesaid, with all things concerning them, and this writ; so that you have the same before the chief justice and the associate justices of the Supreme Court of the United States, on the first Monday in December next, at the city of Washington, being the seat of National Government; that the record and process aforesaid being inspected, they may cause to be done thereupon what of right ought to be done.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, at Philadelphia, this twelfth day of November, A. D. one thousand eight hundred and forty-six, and in seventy-first year of the independence of the United States.

FRA. HOPKINSON, *Cl'k circuit court.*

Allowed. J. K. KANE.

The return to the above writ appears by the schedule annexed.

FRA. HOPKINSON, *Cl'k circuit court.*

UNITED STATES, *sct.*,
Eastern district of Pennsylvania:

To the United States of America:

Whereas, by a writ of error issuing out of the Supreme Court of the United States, directed to the judges of the circuit court of the United States, holden in and for the eastern district of Pennsylvania, in the third circuit, wherein Edmund B. Caldwell, who survived James Lynd, jr., late trading as James Lynd, jr., & Co., claimants of certain cloths and cassimeres, is the plaintiff, the said judges were directed to send the record and process of a certain suit, with all things concerning them, so that the same may be had before the chief justice and the associate justices of the Supreme Court of the United States, on the first

Monday in December next, at the city of Washington, being the seat of National Government, in which suit Edmund B. Caldwell, who survived James Lynd, jr., late trading as aforesaid, original plaintiff, and you, the said the United States of America, *wis* the defendants in error, in a plea by way of information, that the record and process aforesaid being inspected, they, the said chief justice and associate justices, may cause to be done thereupon what of right ought to be done; and the said Edmund B. Caldwell, having made an assignment of errors, and given good and sufficient security that the plaintiff in error shall well and truly prosecute his said writ of error to effect, and answer all such costs as upon an affirmance of the judgment of the said circuit court may be adjudged to the defendant in error, you are hereby cited to appear, (if you see cause,) at the said Supreme Court, at the time and place aforesaid, to answer to the said writ of error, and the errors assigned by the said plaintiff in error.

Given under my hand and seal, this twelfth day of November, one thousand eight hundred and forty-six.

J. K. KANE. [L. S.]

Nov. 25th, 1846.

Served upon Thomas M. Pettit, esq., district attorney of the United States of America, in and for the eastern district of Pennsylvania.

So answers GEORGE M. KEIM,
U. S. marshal E. D. of P.

Pleas before the honorable the judges of the circuit court of the United States, in and for the eastern district of Pensylvania, in the third circuit. It is thus contained:

Whereas, by a writ of error issuing out of the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit, directed to the judge of the district court of the United States, holden at Philadelphia, in and for the eastern district of Pennsylvania, wherein Edmund B. Caldwell, who survived James Lynd, jr., late trading as James Lynd, jr., & Co., claimant of twenty-eight pieces of cloths and seven pieces of cassimeres. seized at James Lynd, jr., & Co.'s store, was the plaintiff, the said judge was directed to send the record and process of a certain suit, with all things concerning them, so that the same might be had before the judges of the said circuit court on the eleventh day of April then next, at the said city of Philadelphia, in which suit the said Edmund B. Caldwell, who survived James Lynd, jr., trading as aforesaid, was the original defendant, and the United States of America were the plaintiffs, in a plea by way of information for forfeiture, &c.; that the record and process aforesaid being inspected, they, the said judges of the circuit court, might cause to be done thereupon, what of right ought to be done.

And whereas the said judge of the district court did thereupon make return to the said writ of error, and did send the record and process aforesaid, so that the same were had before the judges of the said circuit court on the day and at the place aforesaid, which said record and process are in the words following, to wit:

In the district court of the United States of America, in and for the eastern district of Pennsylvania.

Eastern district of Pennsylvania, ss:

Be it remembered, that on this twentieth day of November, in the year of our Lord one thousand eight hundred and thirty-nine, into the district court of the United States of America, in and for the eastern district of Pennsylvania, comes John M. Read, attorney of the said United States of America, and prosecuting in their name and on their behalf, and gives the said court here to understand and be informed, that on the twenty-fourth day of August, in the year aforesaid, at the city of Philadelphia, in the eastern district of Pennsylvania, and within the jurisdiction of this court, the following goods, wares, and merchandise, to wit, twenty-eight pieces of cloth and seven pieces of cassimere, were seized on land, and are now in the custody of George Wolf, esquire, collector of the customs of the port and district of Philadelphia, in the said eastern district of Pennsylvania, as being forfeited for the causes hereinafter mentioned, to wit:

1. For that the said goods, wares, and merchandise, being of foreign growth, produce, and manufacture, were, on divers days and times after the first day of December, one thousand eight hundred and thirty-six, and before the seizure thereof as aforesaid, brought in some vessel or vessels to the said attorney as yet unknown, from some foreign port or place to the said attorney as yet unknown, into some port or place of some district of the United States to the said attorney as yet unknown; and the said goods, wares and merchandise, being so brought as aforesaid, afterwards, between the first day of December, one thousand eight hundred and thirty-six, and the seizure aforesaid, were from time to time unladen and delivered from the said vessel or vessels in which the same had been brought as aforesaid within the United States, to wit, at some port or place of the district aforesaid, without any permit or special license whatever from the collector or naval officer, or any other competent officer of the customs of the port or district where the same were so unladen and delivered, for such lading or delivery, against the form of the act of Congress in such case made and provided.

2. And also for that the said goods, wares, and merchandise, being of foreign growth, produce, and manufacture, were, on divers days and times after the said first day of December, in the year of our Lord one thousand eight hundred and thirty-six, and before the seizure thereof as aforesaid, brought in some vessel or vessels to the said attorney as yet unknown, from some foreign port or place to the said attorney as yet unknown, to the port of the city of New York, in the collection district of the city of New York, in the southern district of New York; and the said goods, wares and merchandise, being so brought as aforesaid, afterwards, between the said first day of December, one thousand eight hundred and thirty-six, and the seizure aforesaid, were from time to time unladen and delivered from the said vessel or vessels in which the same had been brought as aforesaid within the United States, to wit, at the said port of the city of New York, in the said collection

district of the city of New York, within the said southern district of New York, without any permit or special license from the collector or naval officer, or any other competent officer of the customs of the said port or district of the city of New York, for such unlading or delivery, against the form of the act of Congress in such case made and provided.

3. And also for that the said goods, wares, and merchandise, being of foreign growth, produce, and manufacture, and being subject to duties, by the acts of Congress of the United States, were, after the first day of December, in the year of our Lord one thousand eight hundred and thirty-six, and before the seizure aforesaid, brought into the United States, and being so brought as aforesaid, afterwards, to wit, on the day of the seizure aforesaid, were found concealed in a certain store in the occupation of James Lynd, jr., & Co., at the southwest corner of High and Second streets, in the city of Philadelphia, at the port of Philadelphia, in the eastern district of Pennsylvania aforesaid, the duties on the said goods, wares, and merchandise not having been before that time paid, or secured to be paid, against the form of the act of Congress in such case made and provided.

And the said attorney, in the name and on behalf of the said United States, further gives the said court here to understand and be informed, that afterwards, to wit, on the said twenty-fourth day of August, in the year of our Lord one thousand eight hundred and thirty-nine, at the city of Philadelphia, in the said eastern district of Pennsylvania, and within the jurisdiction of this court, certain other goods, wares, and merchandise, to wit, twenty-eight other pieces of cloth and seven other pieces of cassimere, were seized on land, and are now in the custody of Geo. Wolf, esquire, collector of the customs for the port and district of Philadelphia, in the said eastern district of Pennsylvania, as being forfeited for the causes hereinafter mentioned, to wit:

That the said last mentioned goods, wares, and merchandise, are of the growth, produce, and manufacture of some foreign place or country to the said attorney unknown; and were, heretofore, to wit, on divers days and times, after the first day of December, one thousand eight hundred and thirty-six, and before the seizure thereof as aforesaid, brought and imported, in some vessel or vessels to the said attorney as yet unknown, from a foreign port or place to the said attorney as yet unknown, to the port of the city of New York, in the collection district of the city of New York, in the southern district of New York; which said last mentioned goods, wares, and merchandise are subject to the payment of duties to the United States, on being brought and imported as aforesaid.

4. That entries of the said last mentioned goods, wares, and merchandise, duly signed, were, at the times of the several importations thereof, made at the office of the collector of the customs of the said port and district of the city of New York; and that, on each of the said several entries being made as aforesaid, an invoice of the goods, wares, and merchandise included in such entry, was produced and left with the said collector of the customs of the port and district of the city of New York.

And the said attorney further avers, that the said last mentioned goods, wares, and merchandize, which were so entered as aforesaid, and of which invoices were so produced and left as aforesaid, were not invoiced according to the actual cost thereof at the place of importation; but, on the contrary, were invoiced at less sums than actual cost thereof at the place of exportation, with design to evade the duties thereupon, or some part thereof, against the form of the act of Congress in such case made and provided.

5. That the said last mentioned goods, wares, and merchandize, being subject to the payment of *ad valorem* duties to the United States, entries thereof, duly signed, were, at the times of the several importations thereof, made at the office of the collector of the customs of said port and district, the city and district of New York; and that, on each of the said several entries being made, as aforesaid, an invoice of the goods, wares, and merchandize included in such entry was produced, and left with the said collector of the customs of the said port and district of the city of New York.

And the said attorney further avers, that all and each of the said several invoices, so produced and left as aforesaid, and all and each of the said several packages, in each and every of the said several invoices so produced and left as aforesaid, in which the said last mentioned goods, wares, and merchandize were so imported and entered as aforesaid, were made up with intent, by a false valuation, to evade and defraud the revenue of the United States, against the form of the act of Congress in such case made and provided.

6. That the said last mentioned goods, wares, and merchandize, being subject to the payment of *ad valorem* duties to the United States, entries thereof, duly signed, were, at the times of the several importations thereof, made at the office of the collector of the customs of the said port and district of the city of New York; and that, on each of the said several entries being made as aforesaid, an invoice of the goods, wares, and merchandize included in such entry, was produced and left with the said collector of the customs of the said port and district of the city of New York.

And the said attorney further avers, that all and each of the said several invoices, so produced and left as aforesaid, were made up with intent, by a false valuation, to evade and defraud the revenue of the United States, against the form of the act of Congress in such case made and provided.

7. That the said last mentioned goods, wares, and merchandize, being subject to the payment *being subject to the payment* of *ad valorem* duties to the United States, entries thereof, duly signed, were, at the times of the several importations thereof, made at the office of the collector of the customs of the said port and district of the city of New York; and that, on each of the said several entries being made as aforesaid, an invoice of the goods, wares, and merchandize included in the said entry, was produced and left with the said collector of the customs of the said port and district of the city of New York.

And the said attorney further avers, that all and each of the said several packages contained in each and every of the said entries so made, and in each and every of the invoices so produced and left as aforesaid, in which the said last mentioned goods, wares, and merchandize were so imported and entered as aforesaid, were made up with intent, by a false valuation, to evade and defraud the revenue of the United States, against the form of the act of Congress in such case made and provided.

8. That the said last mentioned goods, wares, and merchandize, being subject to the payment of *ad valorem* duties to the United States, entries thereof, duly signed, were, at the time of the several importations thereof, made at the office of the collector of the customs of the said port and district of the city of New York; and that, on each of the said several entries being made as aforesaid, an invoice of the goods, wares, and merchandize included in such entry, was produced and left with the said collector of the customs of the said port and district of the city of New York.

And the said attorney further avers, that all and each of the said several invoices, so produced and left as aforesaid, were made with intent, by a false extension, to evade and defraud the revenue of the United States, against the form of the act of Congress in such case made and provided.

9. That the said last mentioned goods, wares, and merchandize, being composed wholly or in part of wool or cotton, entries thereof, duly signed, were, at the times of the several importations thereof, made at the office of the collector of the customs for the port and district of the city of New York; and that, on each of the said several entries being made as aforesaid, an invoice of the said last mentioned goods, so as aforesaid composed wholly or in part of wool or cotton, included in such entry, was produced and left with the said collector of the customs of the said port and district of the city of New York.

And the said attorney further avers, that all and each of the said several packages, in each and every of the said several invoices so produced and left as aforesaid, and in each and every of the said several entries so made as aforesaid, in which the said last mentioned goods were so imported as aforesaid, were made up with intent to evade and defraud the revenue of the United States, against the form of the act of Congress in such case made and provided.

And the said attorney, in the name and on behalf of the said United States, further gives the said court here to understand and be informed, that afterwards, to wit, on the said twenty-fourth day of August, in the year of our Lord one thousand eight hundred and thirty-nine, at the city of Philadelphia, in the said eastern district of Pennsylvania, and within the jurisdiction of this court, certain other goods, wares, and merchandise, to wit, twenty-eight other pieces of cloth and seven other pieces of cassimere, were seized on land, and are now in the custody of George Wolf, esquire, collector of the customs for the port and district of Philadelphia, as being forfeited for the causes hereinafter mentioned, to wit:

That the last mentioned goods, wares, and merchandise, are the growth, produce, and manufacture of some foreign place or country to the said attorney unknown, and were heretofore, to wit, on divers days and times, after the first day of December, one thousand eight hundred and thirty-six, and before the seizure thereof as aforesaid, brought and imported in some vessel or vessels to the said attorney as yet unknown, from a foreign port or place to the said attorney as yet unknown, into some port or place of some district of the United States to the said attorney as yet unknown; which said last mentioned goods, wares, and merchandise were subject to the payment of duties to the United States, as being brought and imported as aforesaid.

10. That entries of the said last mentioned goods, wares, and merchandise, duly signed, were, at the times of the several importations thereof, made at the office of the collector of the customs of some port or district of the United States to the said attorney as yet unknown; and that on each of the said several entries being made as aforesaid, an invoice of the goods, wares, and merchandise, included in such entry, was produced and left with the said collector of the customs.

And the said attorney further avers, that the said last mentioned goods, wares, and merchandise, which were so entered as aforesaid, and of which invoices were so produced and left as aforesaid, were not invoiced according to the actual cost thereof at the place of exportation; but, on the contrary, were in fact invoiced at less sums than the actual cost thereof at the place of exportation, with design to evade the duties thereupon, or some part thereof, against the form of the act of Congress in such case made and provided.

11. That the said last mentioned goods, wares, and merchandise, being subject to the payment of *ad valorem* duties to the United States, entries thereof, duly signed, were, at the times of the several importations thereof, made at the office of the collector of the customs of some port or district of the United States to the said attorney as yet unknown; and that on each of the said several entries being made as aforesaid, an invoice of the goods, wares, and merchandise, included in such entry, was produced and left with the said collector of the customs.

And the said attorney further avers, that all and each of the said several invoices, so produced and left as aforesaid, were made up with intent, by a false valuation, to evade and defraud the revenue of the United States, against the form of the act of Congress in such case made and provided.

12. That the said last mentioned goods, wares, and merchandise, being subject to the payment of *ad valorem* duties, entries thereof, duly signed, were, at the times of the several importations thereof, made at the office of the collector of the customs of some port or district in the United States to the said attorney as yet unknown; and that on each of the said several entries being made as aforesaid, an invoice of the goods, wares, and merchandise, contained in the said entry, was produced and left with the said collector of the customs.

And the said attorney further avers, that all and each of the said several packages, contained in each and every of the said entries so

made as aforesaid, and in each and every of the said invoices so produced and left as aforesaid, in which said last mentioned goods, wares, and merchandise were so imported and entered as aforesaid, were made up with intent, by a false valuation, to evade and defraud the revenue of the United States, and against the form of the act of Congress in such case made and provided.

13. That the said last mentioned goods, wares, and merchandise, being composed wholly or in part of wool or cotton, entries thereof, duly signed, were, at the times of the several importations thereof, made at the office of the collector of the customs of some port or district of the United States to the said attorney as yet unknown; and that on each of the said several entries being so made as aforesaid, an invoice of the said last mentioned goods, so as aforesaid composed wholly or in part of wool or cotton, included in such entry, was produced and left with the said collector of the customs.

And the said attorney further avers, that all and each of the several packages, in each and every of the said several invoices so produced and left as aforesaid, and in each and every of the said several entries so made as aforesaid, in which the said last mentioned goods were imported as aforesaid, were made up with intent to evade and defraud the revenue of the United States, against the form of the act of Congress in such case made and provided.

By reason of all which the premises, and the acts of Congress in this behalf made and provided, the said goods, wares, and merchandise have become and are forfeited. Wherefore, the said attorney prays the aid and advice of the said court here in the premises, and due process of law for the condemnation thereof.

JOHN M. READ,
U. S. Attorney, E. D. Pa.

And, thereupon, process according to law was ordered and allowed by the said court, and issued agreeably to such order and allowance.

James Lynd, jr., and Edmund B. Caldwell, trading as James Lynd, jr., & Co., of the city of Philadelphia, come and claim the goods, wares, and merchandise in a certain schedule hereto annexed, which have been seized under the authority, or pretended authority, of the United States, and libelled for forfeiture or otherwise by the district attorney of the same; and the claimants hereby aver, that they are the true, sole, and lawful owners of the same, and of every part thereof, and that they were so at the time of the seizure aforesaid, and have been ever since, and were and are, in all respects, lawfully entitled to the same.

FALLON, *for Jas. Lynd, Jr., & Co.*

James Lynd, jr., above and within referred to, being duly sworn according to law, saith: That the facts set forth in the foregoing claim are true, and that the said James Lynd, jr., & Co., are now, and, at the time of the seizure aforesaid, were the true and only lawful owners of the goods, wares, and merchandize, therein mentioned and referred to.

JAMES LYND, Jr.

Sworn and subscribed before me, this 9th day of December, 1839.
JOHN BINNS, *Aldm'n.*

Schedule of goods and merchandizes, seized by custom-house officers, at the store of James Lynd, jr., & Co., and belonging to the said James Lynd, jr., & Co.

4	remnants of pieces,	cont'g	97¼	yds.,	fancy	cassimeres.	
3	"	"	120	"	blue	do.	
11095	"	"	24¼	"	do	cloth.	
3644	"	"	11	"	"	"	
34790	"	"	23¾				
93529	"	"	8¼	"	olive	"	
91937	"	"	9½	"	green	"	
14928	"	"	10	"	brown	"	
35240	"	"	15	"	green	"	
2998	"	"	6	"	brown	"	
1951	"	"	12¼	"	"	"	
1952	"	"	9¼				
1941	"	"	9¼	"	blue	"	
20346	"	"	7½	"	olive	"	
23644	"	"	15	"	green	"	
32499	"	"	12	"	"	"	
23644	"	"	11¾	"	"	"	
22928	"	"	10¼	"	green	cloth.	
6606	"	"	12	"	blue	"	
6605	"	"	12	"	"	"	
17475	"	"	16½	"	"	"	
32540	"	"	8¾	"	"	"	
6607	"	"	12	"	"	"	
30480	"	"	12	"	brown	"	
2221	"	"	11½	"	olive	"	
25778	"	"	10	"	green	"	
35671	"	"	13⅓	"	"	"	
16396	"	"	16½	"	olive	"	
17421	"	"	20	"	brown	"	
89515	"	"	8¼	"	olive	"	

And Edmund B. Caldwell, who survived James Lynd, jr., claimant, by his attorney, whose name is hereto subscribed, comes into the said district court here, and, as to so much of the said information as relates to the goods, wares, and merchandize, in his claim mentioned, whereof a particular specification is thereto annexed, he says: That the same ought not to be decreed to be forfeited, because, he says, that the said several causes of forfeiture alleged in the said information, in manner and form as the same are therein alleged, are wholly untrue; and of this he puts himself upon the country, &c. Wherefore he prays that the said goods, wares, and merchandize, whereof he is claimant as aforesaid, may be restored to him, and that he may be hence dismissed, with his reasonable damages and costs, &c.

FALLON, *For cl'ts.*

And the said United States doth the like, &c.

And the said claimants, by leave of the court first had and obtained, for a further plea in this behalf, as to all save the two first counts, to wit, the first and second counts in the said information, comes into the said district court here, and, as to the said goods, wares, and merchandize, in their said claim mentioned, say: That the same ought not to be decreed forfeited, because, they say, that prior to the seizure of the said goods, wares, and merchandize, out of which said information arose, (and therein mentioned,) to wit, prior to the twenty-fourth day of August, A. D. 1839, the said goods, wares, and merchandize had been fairly and bona fide purchased by these claimants, at sundry times, in the city of Philadelphia, from persons having the ostensible ownership of same, and these claimants had given therefor a full and valuable consideration; nor had these claimants, nor any of them, any knowledge or notice whatever of the said goods, wares, and merchandize, or any part thereof, being liable to seizure or forfeiture, under or by an act of Congress, entitled "An act to regulate the collection of duties on imports and tonnage," or under or by any other act of Congress whatever; nor were the said goods, wares, and merchandize, or any part thereof, at the time of their said seizure, or at any time prior thereto, in any manner whatever, concealed within the meaning of any act of Congress; and this they are ready to verify. Wherefore they pray that the said goods, wares, and merchandize, whereof they are claimants as aforesaid, may be restored to them, and that they may be hence dismissed, with their reasonable damages and costs.

FALLON, *For cl'ts.*

And the claimants, for further plea to the several counts in the said information, say: That the goods and merchandize in the several counts of said information mentioned, ought not to be decreed to be forfeited, because, they say, that prior to the said 24th day of August, A. D. 1839, the said goods, wares, and merchandize were duly entered by the importer or importers thereof, at the port or ports of importation thereof, in the manner pointed out and directed by *by* the several acts of Congress in such cases made and provided, and the same were afterwards duly passed through the custom-house *custom-houses* at said port or ports, and the duties imposed thereon duly paid, according to said entries and passing, the said goods thereupon delivered to the importer or importers thereof. And these claimants further say, that the several package or packages, of which said goods form part or parts at the time of said importations and entries, were afterwards broken up and divided.

And these claimants allege that the said goods, wares, and merchandize were seized, as alleged in said information, on the twenty-fourth day of August, A. D. 1839; and that prior thereto, to wit, during the years 1838 and 1839, the said goods, wares, and merchandize had been fairly and *bona fide* purchased by these claimants at sundry times, in the city of Philadelphia, from persons having the ostensible ownership

of same. And these claimants had, prior to said seizure, given therefor a full and valuable consideration. And they further allege and aver, that no part of the said goods, wares, and merchandize were imported or entered by them as aforesaid, and that they had not, at any time prior to said seizure, any knowledge or notice whatever that the said goods, wares, and merchandize, or any part thereof, were liable to seizure or forfeiture, under or by any act of Congress whatever, or for any cause whatever.

And these claimants further allege, that the said goods, wares, and merchandize are composed wholly or in part of wool or cotton, and that neither the said goods, wares, and merchandize together, nor any part or parts together, formed an original package or packages, such as they existed at the time of said importation and entries and passing; but the said goods, wares, and merchandize were part or parts of several package or packages aforesaid. And these claimants further allege, that neither said goods, wares, and merchandize, nor any part thereof, were, at the time of their said seizure, nor at any time prior thereto, and subsequent to their said purchase as aforesaid, concealed within the meaning of any act of Congress, or in any manner whatever; but that, at the time of said seizure, the same were openly exposed for sale on the shelves of the store of claimants, in the city of Philadelphia, in the eastern district of Pennsylvania aforesaid; and this they are ready to verify. Wherefore they pray that the said goods, wares, and merchandize may be restored to them, and that they be hence dismissed, with their reasonable damages and costs, &c.

FALLON, *For cl'ts.*

To the plea of the defendants first by them pleaded, (wherein the causes of forfeiture are by them traversed,) the United States do the like.

To the other pleas, and each of them, by the defendants above pleaded, the United States do demur in law, and, for causes of demurer, shew that the same contain no manner or thing which opposes a bar to the forfeiture for the causes in the information alleged, and by the said pleas admitted to be true.

H. M WATTS,
Att'y of U. S., E. D. P.

And the claimants join in above demurrer.

FALLON, *for claimants.*

Therefore let a jury thereupon come on the 18th day of November, A. D. 1842, at Philadelphia aforesaid, before the judge aforesaid, by whom, &c., who neither, &c., to recognise, &c., because as well, &c.; the same day is then given to the parties aforesaid.

Afterwards, to wit, on the 18th day of November, A. D. 1842, at Philadelphia aforesaid, before the judge aforesaid, come the parties aforesaid, by their attorneys aforesaid, and the jurors of the jury aforesaid being called, likewise come, to wit: Joseph Price, Rufus L.

646.

Barnes, George H. Dubois, Thomas Reath, Peter Rovoudt, Jonathan Miller, George H. Burgin, James T. Horner, Elisha R. Johnston, Daniel Fletcher, George Eshenck, J. Engle Negus, who are duly impanelled, returned, chosen, tried, elected, sworn, or affirmed to speak the truth of the matter therein contained.

Be it remembered that, at the November session, A. D. 1839, came the United States of America into the district court of the United States for the eastern district of Pennsylvania, and filed an information against twenty-eight pieces of cloths and seven pieces of cassimeres, (prout same,) and the said James Lynd, jr., claimed said cloths and cassimeres, and pleaded, (prout pleas;) and thereupon issue was joined between them. And afterwards, to wit, at a session of said court, held at the city aforesaid, before the honorable Archibald Randall, judge of said court, on the day of December, A. D. 1842, the aforesaid issue between the said parties came to be tried by a jury of the said district, for that purpose duly impanelled, (prout list of jurors,) at which day came as well the said plaintiff as the said defendant, by their respective attorneys, and the jurors of the jury aforesaid, impanelled to try the said issues, being also called, come, and were then and there in due manner chosen and sworn or affirmed to try the said issue; and upon the trial the counsel of the said United States, to maintain the issue on their part, called John J. Logue, who, being sworn, testified: "I made the seizure of the goods which went to the custom-house stores (here defendant's counsel objected to any further testimony from witness, on the ground of his being interested, but the court admitted it, and exceptions were taken.) Witness then proceeded: I called at store of claimant's; my intercourse was with Mitchell, who was in charge. I told him I was under the necessity of giving him a call, and expected he knew the goods I was in search of; he said he did not. I told him he was certainly aware of the nature of the goods, as we had been seizing round the neighborhood. He then asked me to name whose goods I would wish; I at that time mentioned, I believe, no particular name. I told him I had a warrant to search his store for goods fraudulently imported through the custom-house. He told me he knew who I was, and did not wish to see the process; my word was sufficient. I told him it was rather disagreeable for me, and that if he did not come to an understanding, I would be under the necessity of taking all the cloths and cassimeres in the store; I told him he could save himself trouble if we were to come to an understanding. He finally mentioned the names of Blackburne & Taylor, and said, those are the goods I suppose you wish. I said yes; that I knew him, and as a gentleman I would take his word; that every piece of cloth or cassimere he would say came from Blackburn or Taylor's I would take, and all others that he would give a satisfactory account of to me that they came from others who I believed correct importers, I would leave; and with this understanding he commenced laying out goods that had come from Taylor & Blackburn's, and others; these latter I did not take, but those that came from Taylor & Blackburn I had taken to the custom-house stores. Being

shown a list, witness says: This is a correct list of the goods taken by me. The counsel for the United States then offered to prove by witness what took place at the store of W. Blackburn & Co., two or three days before the seizure at claimant's store, in regard to goods, the greater part of which were of the same invoices that these goods were imported by, which was objected to by defendant's counsel, admitted by the court, and excepted to. The witness then proceeded: About two or three days prior to the seizure at Lynd's, I also assisted at the seizure at the store in Church Alley of W. Blackburne & Co.; I proceeded there with Gideon, of Philadelphia, and Kairns, of New York. We enquired there about cloths and cassimeres that had been imported into New York; however, Blackburn denied having those goods, and said he would show us all the goods in his store. We then asked him if he had no other goods? He said no. We then asked him if he had no other warehouse? He said no; that all the goods of which he was owner we had seen. We went back in the afternoon, and met Christopher Blackburn; we told him we wished to see the upstairs room. He said, you have seen it. We said no; there was one room we had not seen. We went upstairs; we examined and found shelving and boxes along the western wall. I asked him where the entrance was? He said there was none. I commenced thrusting with a yardstick I had picked up. He then told me the entrance was behind the boxes. We took down the boxes; there was the room darkened, the windows closed, and a fine lot of goods. We told him to consider us as having seized the goods in both stores. We put a watch there that night. There was no appearance of the store having been long shut up; a table was in it, such as it is customary to expose goods on for sale. The next morning we went there, and there was Mr. Blackburn; he looked cool enough. I think then they made out a list, which was compared with the entries made at the custom-house, and we left the goods of Philadelphia importation, and took the rest to the custom-house; it made a skeleton of the store.

Being cross examined, witness says: I have not got the warrants. I delivered all the letters to John Kern, who is since dead. The goods, when seized at James Lynd, jr. & Co.'s store, were openly exposed for sale in the store, distributed about among other goods on the shelving; there was no appearance of concealment at all. The store was an open store, into which any person might enter, and they were selling the goods indiscriminately. Their store was wholesale and retail; coat patterns could be bought; some of the pieces were cut a few yards in them. We expected to find a larger number of pieces than we did. Mr. Mitchell told me, I think, that he had the goods of Blackburne & Co. and John Taylor.

The counsel for the United States then read in evidence the oath and warrant, (prout the same,) and offered in evidence a deed of assignment, James Lynd, jr. and E. B. Caldwell to W. Blackburne, then one of the firm of Wm. Blackburne & Co., (prout the same,) which assignment

was objected to, but admitted by the court; to which exception was taken, and it was then read.

The counsel of the United States verified, by a witness from the custom-house at New York, all the invoices and entries of importations at that port mentioned below, and by a witness from the custom-house at Philadelphia, all the invoices and entries of importations at Philadelphia mentioned below.

Evidence was offered of the invoices and entries of the importations of John Taylor, jr., at New York, of 12 pieces of the goods in controversy, and of Wm. Blackburn & Co., and Wm. Blackburne at Philadelphia, of 7 pieces; as to which 19 pieces the invoices contained corresponding marks and numbers.

The counsel of the defendant objected to the admission in evidence of these invoices and entries, but the court admitted the same; to which decision the defendant's counsel excepted, and the same were read in evidence. A witness proved diligent search for, and the loss of 4 invoices of importations of W. Blackburne & Co., which had been in the Philadelphia custom house, viz., those by the Virginia, the Colchis, the Spartan, and the Susquehanna. And another witness verified a copy in the appraisers' book of the custom house at Philadelphia of the said missing invoice by the Virginia, in which one of the pieces in controversy was identified, and which was offered in evidence. The said appraisers' book contained an abstract, but not a full copy of the other 3 invoices. To prove that the remaining 15 pieces in controversy were embraced in these 3 invoices, the counsel of the United States offered evidence of certain other invoices and entries of importations by John Taylor, jr., and William Blackburne & Co., in 1838 and 1839, ending with the time of the seizure of the goods in question, in which invoices these goods were not found; together with the evidence of persons who had searched the custom houses of New York and Philadelphia, and had examined the import books, who had testified, that there had been no other importations of these parties in those years down to the said time of seizure. The counsel of the defendant objected to the admission in evidence of the said invoices, which did not contain goods in controversy, but the court admitted the same in evidence; to which decision the defendant's counsel excepted, and the same were read in evidence. It thereby appeared, that the said remaining pieces of goods in controversy were not invoiced in any of the importations of either of these parties, other than the said missing invoices. The counsel of the United States then offered in evidence the entries by William Blackburne & Company in the custom house at Philadelphia, of the goods embraced in the said four missing invoices, (prout entries,) and offered to prove by the said entries, and testimony of Henry Simpson, who had been an appraiser of the customs at Philadelphia at the time of their entry, that from each of the two invoices by the Colchis and the Virginia, there had been deducted two discounts of five per cent. each, one of them for cash, and the other for measure; that both of these discounts had been struck off by the appraisers in the case of the Virginia, and

York, between the said dates and the testimony of Wm. C. Dayton and Elias D. Ogden, whose testimony is contained in the schedules hereto annexed, and testimony of the handwriting of said Campbell to the jurats, and designations of packages to be examined, endorsed upon the said entries. And the counsel of the United States examined a witness, who testified that 75 to 80 per cent. advance on the price in England would cover all charges upon imported cloths and cassimeres.

The counsel for claimant then called Elijah Mitchell, who, being affirmed, said: "I was in the employment of James Lynd, jr., & Co., at the time of the seizure, and prior thereto, and general manager of their business. The goods had been purchased by James Lynd, jr., & Co., at the prices and on the days mentioned in this list, (prout the same then read.) A great many had been paid for before the seizure, or settled for by giving notes; there were no goods in the store but such as had been bought. We were not in any manner interested in the importation of goods. The figures on the list refer to the pages on the invoice book. I conducted the business generally. There was no connection between James Lynd, jr., & Co., and W. Blackburne & Co., except such as exists between business men; they were apart from James Lynd, jr., & Co. This assignment (then exhibited to him) never went into effect. It was cancelled, with the consent of all parties interested. It never went into effect at all. James Lynd, jr., & Co., remained in possession as heretofore. They made an arrangement with their creditors. They had made such arrangement, which was the reason the assignment was cancelled. It was understood, by all parties, at the time of its execution, that it should be cancelled if this could be done. I made pretty much the whole of the purchases. I had no knowledge or suspicion of any fraud on the revenue committed by any person when we purchased, nor do I think that Lynd or Caldwell had any. I know they could not have had any, because the transactions were through me. I don't know from whom the cassimeres not marked came, and so told Mr. Logue at the time of the seizure; the rest of the goods were bought of W. Blackburn & Co. Cross examined. Witness says: The goods were bought on a credit of 8 months; part of the $51,000 preference was for merchandize, endorsements, &c. Blackburn & Co. were to guarantee the settlement with the creditors, and to get 5 per cent. for so doing. The stock was not pledged with us to be left in our hands for that purpose. The effects were not to be disposed of by us and applied to Blackburne's indemnity. Claimants' counsel then called John Mounnier to testify to same matters as those testified to by E. Mitchell, which he did.

The counsel for the claimants asked the court to instruct the jury—

First. That there cannot be a forfeiture of the goods under the 4th section of the act of 1830, nor under the 14th section of the act of 1832, unless the information alleges, and the United States have proved, all the special circumstances of the examination and detection of the fraud, under the authority of the collector, in the manner pointed out in said acts of Congress.

On which the court instructed the jury—this is correct; but there may be a forfeiture under the act of 1799.

Second. That the probable cause mentioned in the 71 section of the act of Congress of 1799, chapter 128, refers to the right of seizure under said act; and the right of seizure depends on the fact, whether, at the time of their being seized, the goods were concealed within the meaning of the 68th section of said act.

On which the court instructed the jury—this is not law, as applied to this case. The probable cause applies to all cases of seizure for any fraud under any of the revenue laws, and any section of any such law. Whether there was probable cause for the prosecution does not depend upon whether there was originally ground for the seizure or not, but upon the proof at the trial in support of the prosecution.

Third. That the term concealed in said 68 section applies only to articles intended to be secreted and withdrawn from public view, on account of the duties not having been paid, or secured to be paid, or from some other fraudulent motive; which the court answered affirmatively.

Fourth. That if the goods were not so concealed, nor any probable cause to suspect their concealment at the time of their seizure, the burden of proof is upon the United States; that neither the existence of probable cause to suspect that goods, upon which the duties had not been paid, or secured to be paid, were in possession of the claimants, nor the fact that goods were found in their possession which had been fraudulently invoiced or entered, are sufficient to justify a seizure under said 68 section, unless the goods were concealed by them, or they were parties or privies to the false invoices or entries.

On which the court instructed the jury—this is not the law. The burden of proof is not upon the United States, though the goods may not have been concealed, nor any probable cause to suspect their concealment at the time of their seizure, if there was probable cause to believe the duties upon them had not been paid or secured.

Fifth. That if the goods seized had been fairly and bona fide purchased by the claimants, without any knowledge by them of their being liable to seizure on the part of the United States, and were, at the time of the seizure, openly exposed by them for sale in their store, the United States cannot recover under the 66th or 68th section of said act of 1799, even though the goods had been fraudulently or falsely invoiced or entered, provided the claimants were in no way parties thereto.

On which the court instructed the jury—this is not the law. If the goods were fraudulently entered, it is no matter in whose possession they were when seized; the forfeiture took place when the fraud, if any, was committed, and the seller could convey no title to the purchaser.

Sixth. That even though the goods in question had been invoiced at less than actual cost thereof at the place of exportation, with design to evade the duties thereupon, the United States had no title in the goods until they made their election, either to recover the goods themselves, or the value thereof; and that any rights in said goods, acquired bona fide by third persons in the meantime, are protected against the right of forfeiture under this section.

On which the court instructed the jury—this is not the law. The title of the United States vested at the time the fraud, if any, was committed, and the law authorized them to seize the goods wherever they might be found.

Seventh. That the United States are not entitled to recover under the first and second counts of the information, unless the goods were unladen, and delivered without permits.

On which the court charged: If the permits were obtained by fraud and improper means, they are of no effect, and a mere nullity. The United States are entitled to recover, if the goods were imported with the view to defraud the revenue.

Eighth. That the burden of proof in this case, under the 71 section of the act of 1799, is upon the United States.

On which the court charged: This is not so, the burden of proof is on the claimants.

The counsel for claimants also asked the court to charge—

Ninth. That the claimants are not bound to prove the innocence of intent of the importers in making the invoices.

Tenth. The claimants are not bound to prove the actual cost or value of the goods at the place of exportation.

Eleventh. The claimants are not bound to prove innocence of intent of the importers in making their invoices, nor the actual cost at the place of exportation when they were appraised at the custom-house.

Twelfth. That the permits, and the delivery of these goods from the custom-house, is a bar in all cases against any forfeitures except where the claimants are parties or privies to the fraud in obtaining them, or had knowledge of the same.

Thirteenth. If the vendor is liable to the claimants of the goods seized for indemnity for the forfeiture of them, the seizure does not invalidate the sale, or impair the title of claimants thereto.

But the court refused so to charge the jury, and further charged—

That the United States have shown probable cause for this prosecution, and the claimants are bound to prove the innocence of intent of the importers in making the invoices. That they are bound to prove the actual cost or value of the goods at the place of exportation, even though they were appraised at the custom-house. That the granting permits, and delivery of these goods from the custom-house, is not a legal bar against forfeiture in all cases, except where the claimants are parties or privies to the fraud in obtaining them, or had knowledge of same. And, as to the thirteenth point, that if the goods were fraudulently entered, no title passed to the claimants.

And thereupon the counsel for the said claimants did then and there except to the aforesaid charge and opinion of the court; and, inasmuch as the said charge and opinion, so excepted to, do not appear upon the record, the said counsel for the said claimants did then and there tender this bill of exceptions to the opinion of the said court, and requested the seal of the judge aforesaid should be put to the same, according to the

form of the statute in such case made and provided. And thereupon the aforesaid judge, at the request of the said counsel for the claimants, did put his seal to this bill of exceptions, pursuant to the aforesaid statute in such case made and provided, this day of , A. D. 1843.

ARCH'D RANDALL, *Dist. Judge*. [SEAL.

To John J. Logue and Jno. Hentz:

Whereas I, George Wolf, collector of the customs for the district of Philadelphia, have received information that certain goods, wares, and merchandize are now fraudulently introduced into the port of Philadelphia, without permit first had and obtained for that purpose, and with intent to defraud the revenue of the United States; and whereas I have cause to suspect the said goods, wares, and merchandize are concealed in the store of James Lynd, jr., & Co., merchants, situate at the S. W. corner of Second and High streets, in the city of Philadelphia. Now, by virtue of the sixty-eighth section of the collection law, these therefore are to authorize you, the said John J. Logue and John Hentz, after you have obtained a warrant for that purpose from one of the aldermen of the city of Philadelphia, to enter the said store of James Lynd, jr., in the day time only, and there make diligent search; and, if any of the said goods, wares, and merchandize be found, you seize and secure the same for trial.

Witness my hand and seal, this twenty-fourth day of August, anno domini one thousand eight hundred and thirty-nine.

GEO. WOLF, *Collector*. [SEAL.]

CITY OF PHILADELPHIA, *ss:*

The United States of America to John J. Logue and John Hentz, greeting:

Whereas information is given before me, William Milnor, esquire, one of the aldermen of the city of Philadelphia, by Jacob B. Coates, now of the county of Philadelphia, who did depose and say, that he hath reason to suspect, and doth verily suspect, from information received, that certain goods, wares, and merchandize now are in store, S. W. corner of 2d and High street, in the district of Philadelphia, to defraud the revenue of the United States; and whereas the said Jacob B. Coates further did depose and say, that the said goods, wares, and merchandize are, as he understands, and doth verily believe, stored and secreted in the said store of James Lynd, jr., & Co., merchants, situate on the corner of Second and High street, S. W., in said city; and whereas George Wolf, collector of the port of Philadelphia, in pursuance of the authority given to him by the 68th section of the collection law, has duly authorized and empowered John J. Logue and John Hentz to act in the premises, agreeably to the terms of the said authorization hereto annexed. Now, by virtue of the power and authority vested in me, and in conformity to the authority given to you by the said authorization, these are therefore to require you, the said John J. Logue and John

Hentz, to enter the aforesaid described store, S. W. corner of 2d and High street, in the day time only, and there to search for the said goods, wares, and merchandize, and, if any shall be found, you seize and secure the same for trial.

In witness whereof I, the said William Milnor, esquire, have hereunto set my hand and seal, on the twenty-fourth day of August, A. D. one thousand eight hundred and thirty-nine.

WILLIAM MILNOR, *Alderman*. [SEAL.]

William C. Dayton, sworn: While James Campbell was deputy collector, I was order clerk. There was but one desk between Campbell and myself. No person could come to his desk without my seeing them, unless I was very much occupied.

Mr. John Taylor, jr.: Entries almost invariably were sworn before Campbell; Mr. Taylor gave the preference to and waited for Mr. Campbell, and I have seen Mr. Taylor go away and return in company with Mr. Campbell. After the package was designated the entry came either to me or my associate. I saw the entries; they were filed by me. Mr. Taylor and some others completed their transactions in the same day. I have noticed this as I rarely filed his entries; they rarely remained until the next day.

The others that got their entries with this speed were half a dozen, perhaps; Bottomley was one; Thomas Wood, jr., was another. My impression is this, but it was not the general course of importers to hurry through.

I did not see anything contrary to law, except an especial partiality for Campbell. I never noticed that others had a preference for particular deputies. The merchants, generally, go to those who will pass their entries quickest. Mr. Campbell had the greatest number of persons at his desk, so that his desk would offer the least facilities. I presume he used the same dispatch with all. Rather more than a fair proportion went to Campbell's desk. The others were always under the same roof. There were always two under the same roof at business; two of them were slow and two of them rapid in doing business. Campbell had a quick way. I have been thirteen years in the custom-house; one year with Mr. Hoyt. Never saw Taylor and Hoyt together in business.

Re-examined. The occasion on which Taylor returned, was one. I can't specify more; but, on many occasions, he would wait for him in the lower hall. I have passed Taylor waiting there for him.

Elias D. Ogden, sworn: I have examined all these entries. While James Campbell was deputy collector, I was entry clerk. I was 5 or 6 desks from Mr. Campbell, in 1838 or 1839. I went into the custom-house before Mr. Campbell came. Mr. Campbell had been entry clerk before he had been deputy collector. There were four deputy collectors in the office then; they indiscriminately received all or any entries offered to be sworn before them; there was no division of labor. I knew John Taylor, jr. As far as I observed, Mr. Taylor made his en-

tries before James Campbell; invariably, I think. He came sometimes when Mr. Campbell was not there; he would ask for Mr. Campbell, and when not there, he would leave the office. I never noticed with whom he returned. When he would thus go away, there were other deputies in attendance to receive entries. I generally knew Taylor to swear before Mr. Campbell; never knew him to swear before another. I know the handwriting of James Campbell. I know his figures as well as letters. I have examined all the entries and all the oaths.

In those cases when they are endorsed, the figures are in Mr. Campbell's handwriting except one, 165; this is in Bleecker's figures. No. 178 is sworn before Bleecker, and the designated package I believe to be in James Campbell's figures; it does not resemble Mr. Bleecker's. All the others are in Mr. Campbell's handwriting on the back.

Are the numbers designated always the highest?

Ans. No, sir.

SCHEDULE.

Present number of ticket.	No. in invoice.	Vessel.	Date of invoice.	Package in which imported.	Cloth color.	Cassimere.	Yds. in invoice.	Yds. on present ticket.	Invoice price.	Pub. appraisers.	Tingley.	Scott.	
1491	1491	Independence	Jan. 31, 1839	H 120	Blue		15	9[1]	8 3	9 6	9 0	9 0	From the price in the invoices were deducted 2 discounts, 5 p. c. each.
34790	34790	"	May 16, "	[B]F 68	"		26[2]	23[3]	6 6	8 0	7 6	7 6	
2221	2221	England	Dec. 17, 1838	WB 305	Green		11[2]	11[2]	11 0	12 6	12 6	12 6	
11093	11093	Columbus	July 14, "	E 767	Blue		24[1]	24[1]	7 6	9 0	9 0	9 0	
20346	20346	Republic	Nov. 5, "	A 438	Brown		10	7[2]	11 9	13 0	12 6	12 6	
22928	22928	U. States	" 28, "	A 472	Olive		13[2]	10[1]	12 0	12 6	12 6	12 6	
35671	35671	"	" " "	A 471	Green		14[3]	13[2]	11 9	13 0	13 6	13 6	
23644	23644	Sheridan	" 10, "	A 457	"		15	11[3]	12 0	13 6	13 0	13 0	
23644	23644	"	" " "	"	"		15	15	12 0	13 6			
32540	32540	"	" " "	"	Blue		12	8[3]	13 6	13 6	14 0	14 0	
32499	32499	"	" " "	"	Green		12	12	12 0	13 0	13 6	13 6	
25788	25788	Roscoe	Oct. 18, "	[F] 220	"		11[2]	10	10 0	11 0	11 0	11 0	
1951	1961	Jane Ross	May 29, "	[1][4] 73	"		12	12[1]	10 0	11 0	11 6	11 6	From price in invoice, 2 discounts deducted, each 5 p. c.
35240	35240	"	" " "	" 74	"		15	15	12 0	12 0	12 0	12 0	
16396	16396	Heilah	June 12, "	A 108	Olive		21	16[2]	13 0	12 6	12 0	12 0	Invoice contained several errors in extension.
17421	17421	"	" " "	"	Brown		20	20	13 0	10 6			
89515	89515	Algonquin	May 16, "	H 748	Olive		21[2]	8[3]	8 3	8 6	9 0	9 0	2 discounts in invoice, each 5 p. c.
91957	91957	Monongahela	July 13, "	W 826	Green		20[3]	9[2]	11 0	9 6	9 0	9 0	
93529	93529	"	" " "	" 825	Olive		21	8[1]	10 0	9 6	9 0	9 0	

None					Drab corded		25[1]		4 0	4 6	4 6
None					Ox. mixed		25		5 6	5 6	5 6
None					Dk. corded		39[3]		5 9	6 0	6 0
None					Mixed ribd		31		5 9	6 0	6 0
None					Blue & blk. ribd		27		4 0	4 0	4 0
None					Mixed ribd		37		5 9	5 6	5 6
113					Ox. mixed		32[3]		4 6	4 6	4 6
1952					Green		9[1]		11 0	10 6	10 6
3480					Brown		12		10 6		
3644					Blue		11		8 6	8 0	8 0
6605					"		12		15 9	16 0	16 0
6606					"		12		15 9	16 0	16 0
6607					"		12		15 9	16 0	16 0
14928					Brown		10		11 3	11 6	11 6
17475					Blue		16[2]		15 0	14 6	14 6
2998					Brown		6		11 6	12 0	12 0

SCHEDULE.

Numbers.	Yards.	Description of goods.	Date.	Price.	Totalvalue.	
3 pieces,						
39¼, 25¼, 32¼	97[1]	Fancy cassimeres.....	Nov. 2, 1838	$2 50	$243 12	104
4 pieces,						
27, 37, 31, 25	120	Ribbed....do.....	" "	2 65	318 00	104
11095	24[1]	Blue.....cloth....	Sep. 28, "	4 25	103 06	33
3644	11	Do.....do.....	" "	4 25	46 75	73
34790	23[3]	Do.....do.....	July 19, 1839	3 10	73 63	276
93529	8[1]	Olive.....do.....	Aug. 29, 1838	5 20	42 91	42
89515	8[1]	Do.....do.....	" "	4 30	35 48	42
91957	9[2]	Invisible green..do.....	" "	5 80	55 10	42
14928	10	Brown.....do.....	June 21, 1839	5 80	58 00	139
35240	15	Invisible green..do.....	Aug. 22, 1838	6 10	91 50	34
2998	6	Brown.....do.....	Jan. 29, 1839	6 80	40 80	147
1951	12[1]	Do.....do.....	Jan. 29, "	5 80	71 05	146
1952	9[1]	Do.....do.....	" "	5 40	49 95	"
1941	9[1]	Blue.....do.....	" "	4 40	40 70	"
20346	7[2]	Olive.....do.....	Mar. 18, "	6 25	46 87	193
23644	15	Green.....do.....	Feb. 4, "	7 20	108 00	155
32499	12	Do.....do.....	" "	7 00	84 00	"
23644	11[3]	Do.....do.....	" "	7 20	84 60	"
32499	10[1]	Do.....do.....	Mar. 16, "	6 75	69 19	
6606	12	Blue.....do.....	Feb. 4, "	8 40	100 80	155
6605	12	Do.....do.....	" "	8 40	100 80	"
17475	16[2]	Do.....do.....	" "	8 00	132 00	"
32540	8[3]	Do.....do.....	" "	8 00	70 00	"
6607	12	Do.....do.....	" "	8 40	100 80	"
30480	12	Brown.....do.....	Mar. 16, "	4 90	58 80	191
2221	11[1]	Olive green.....do.....	Mar. 28, "	5 90	69 85	201
25778	10	Green.....do.....	May 1, "	4 60	46 00	238
25671	13[1]	Do.....do.....	Apl. 30, "	6 00	81 00	234
16396	16[1]	Olive.....do.....	Mar. 28, "	5 38	88 77	201
17421	20	Brown.....do.....	" "	5.38	107 60	"
					$2,617 13	

And thereupon, afterwards, to wit, on the sixteenth day of December, in the year last aforesaid, the jurors aforesaid on their oaths and affirmations aforesaid respectively do say, that they find for the United States, under the act of 1799, sections 50 and 66, as to all the goods contained in the libel, except as to two pieces cloths, Nos. 91957 and 93529, as to which they find for claimants, (and probable cause for seizure certified as to all.)

And now, to wit, on this thirty-first day of January, A. D. 1845, it is adjudged, ordered, and decreed, that the goods, wares, and merchandize above mentioned be, and the same are, condemned as forfeited for the causes in the said information set forth, under the act of 1799, sections 50 and 66.

And now, to wit, at a circuit court of the United States, holden a Philadelphia, in and for the eastern district of Pennsylvania, in th third circuit, this cause came on to be heard on the transcript of th

record from the district court of the United States, for the eastern district of Pennsylvania, and was argued by counsel. And, on consideration thereof, it is now, this ninth day of November, A. D. 1846, here ordered and adjudged by this court, that the judgment of the said district court be and the same is hereby affirmed, with costs.

UNITED STATES,
Eastern district of Pennsylvania, sct:

I certify the foregoing to be a true and faithful copy of the record and proceedings of the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit, in a certain action therein lately depending, between Edmund B. Caldwell, who survived James Lynd, Jr., lately trading as James Lynd, Jr., & Co., plaintiffs in error, and the United States of America, defendants in error.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of said court, at Philadelphia, this twelfth day
[SEAL] of November, A. D. 1846, and in the seventy-first year of the independence of the said United States.

FRA. HOPKINSON,
Clerk circuit court.

Filed December 1, 1846.